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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on
the Elimination of Racial Discrimination

Spain

1. The Committee considered the thirteenth periodic report of Spain (CERD/C/263/Add.5) at its 1145th and 1146th meetings, on 7 and 8 March 1996 (see CERD/C/SR.1145-1146) and, at its 1154th meeting, on 14 March 1996, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to continue its dialogue with the Government of Spain. It expresses its appreciation for the prompt submission of the thirteenth periodic report, less than one year after the consideration of the previous report by the Committee, which demonstrates the commitment of the Government to the elimination of racial discrimination and to the fulfilment of its obligations under the Convention. The Committee notes with satisfaction that, though the report does not follow the guidelines for the preparation of periodic reports, it answers the questions raised during the consideration of the twelfth periodic report that were not responded to at that time. The Committee also expresses its appreciation for the additional information provided orally by the delegation.

B. Factors and difficulties impeding the implementation of the Convention

3. It is noted that the increase in acts of racial discrimination against foreigners, asylum-seekers and members of the Gypsy community constitutes an impediment to the full implementation of the Convention in Spain. At the same time, the lack of official socio-economic data on the Gypsy population may impair the effectiveness of the policies to improve their situation.

C. Positive aspects

4. The commitment expressed by the delegation on behalf of the Government to make the declaration under article 14 of the Convention, to withdraw the reservation to article 22 of the Convention and to consider the ratification of the amendments to article 8, paragraph 6, of the Convention adopted at the fourteenth meeting of States Parties is welcomed.

5. It is noted with satisfaction that measures have recently been adopted by the Spanish authorities to intensify the fight against racial discrimination and xenophobia and to bring Spanish law more into line with the requirements of the Convention. For example, Organic Laws 4/95 and 10/95 introduce into the Criminal Code the crime of genocide, and define a racist or anti-Semitic motivation for the commission of a crime as an aggravating circumstance.

6. The provisions of the new Law on the Regulation of the Right to Asylum 9/1994 and of Royal Decree 203/1995, providing inter alia that an asylum-seeker whose request for asylum has been refused may still be given a residence permit in Spain for humanitarian reasons, and that asylum-seekers are granted health care and the assistance of a legal counsellor and of an interpreter to help them during the procedure, are also welcomed.

7. The Gypsy Development Programme set up to improve the situation of the Gypsies, in particular in the field of education, promotion of the Gypsy culture, housing and employment, and conducted in collaboration with Gypsy associations, is noted with satisfaction. The Self-Regulating Agreement between the Ministry of Social Affairs and the mass media, concluded in order to promote a positive and non-discriminatory image of the Gypsy community, is viewed by the Committee as an original and positive measure.

8. The various campaigns initiated by the Ministry of Social Affairs or by the European Union, for example, the "Democracy is equality" and "Youth against intolerance" campaigns, and the "Youth campaign against racism, xenophobia, anti-Semitism and intolerance", are welcomed.

D. Principal subjects of concern

9. Concern is expressed over the increasing manifestation of racism, xenophobia and discrimination against foreigners, asylum-seekers and members of the Gypsy community. It is noted with serious concern that evidence of racist attitudes on the part of members of the police and the Civil Guard seems to be increasing, and that the number of convictions resulting from such incidents does not seem to increase proportionately.

10. It is regretted that no precise information was provided with regard to the socio-economic situation of the Gypsy community. Similarly, not enough precise information was provided to the Committee with regard to the status of the Muslims residing in Ceuta and Melilla; in particular, it was not made clear whether the members of this community were full Spanish citizens.

11. It is noted that neither the report nor the additional oral information provided the Committee with enough information on the training of members of the security forces, the judiciary and the public service at large in the avoidance of racial discrimination.

12. While the wide autonomy enjoyed by the Autonomous Communities in Spain in the field of education is welcomed, it is noted with concern that in Catalonia and in the Basque Country it may be difficult for the children of the Castilian-speaking minority to receive education in their mother tongue.

13. Serious concern is also expressed with regard to the status of neo-Nazi and other extreme-right organizations which spread racist ideas. It is regretted that it was not made clear during the discussion whether such organizations could be registered and, if so, whether they could be dissolved on the sole ground that they spread racist ideas, or whether they were secret and, in this case what the attitude of the authorities towards them is. It is doubtful whether Spain fully implements article 4 (b) of the Convention.

14. It is noted that, while efforts to relocate members of the Gypsy community in the Madrid area through the resettlement plan of the Madrid Municipal Corporation are welcomed, more attention should be paid by the authorities to ensuring that the implementation of the plan does not lead to the segregation of this community.

15. It is also noted that the lack of information on the implementation of article 5 of the Convention makes it difficult for the Committee to evaluate the actual situation with regard to the enjoyment of civil, political, economic, social and cultural rights by foreigners and members of the various ethnic groups in Spain.

16. Doubts were expressed whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from competent tribunals.

E. Suggestions and recommendations

17. The Committee recommends that the Spanish authorities urgently adopt more effective measures to contain and punish racist actions and xenophobia in all their forms, in particular through the training of members of the security forces, of the judiciary and other officials and through a close surveillance of extreme-right organizations. With regard to the latter, the Committee recommends the reinforcement of measures aiming at the full implementation of article 4 of the Convention.

18. The Committee recommends that the enjoyment by everyone, without discrimination, of the rights listed in article 5 of the Convention be ensured. In that regard, the Committee particularly recommends that

strengthened attention be given to the equal enjoyment by members of the Gypsy community of the rights to housing, to education, to work and to protection in case of unemployment.

19. The Committee recommends that the next report contain detailed information on complaints and sentences relating to acts of racial or ethnic discrimination.

20. The Committee recommends that measures be taken by the authorities to ensure that Castilian-speaking children have the possibility of receiving education in Castilian in Catalonia and in the Basque Country.

21. The Committee recommends that information be provided in the State party's next periodic report on the results of the implementation of the laws and amendments recently adopted and mentioned above and on the obstacles encountered in their implementation, as well as on the implementation of article 5 of the Convention. Similarly, the Committee stresses the necessity for complete and up-to-date statistical data to be included in the next report on the exact ethnic composition of the Spanish population and on the socio-economic characteristics of each ethnic group.

22. The Committee recommends that the State party's next periodic report, due on 5 January 1998, be a comprehensive report in accordance with the reporting guidelines.